

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

KORY NIELSEN,

Petitioner,

v.

MAGGIE MILLER-STOURT,

Respondent.

Case No. C07-5192FDB

ORDER DIRECTING  
SERVICE AND RETURN,  
§ 2254 PETITION ORDER

This 28 U.S.C. § 2254 petition for habeas corpus relief has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636 (b) and local Rules MJR 3 and 4. The court entered a Report and Recommendation to deny *in form pauperis* status (Dkt. # 3). Petitioner then paid the filing fee prior to an order adopting the Report and Recommendation (Dkt. # 4).

When the court examined the file, to determine if service was warranted, the court found one copy of the petition and memorandum in support. There is a supplemental certificate of service indicating that on April 23, 2007 counsel for petitioner served a copy of the petition and memorandum on the Office of the Attorney General, Criminal Justice Division (Dkt. # 2).

Counsel is reminded that pursuant to 28 U.S.C. § 2243 it is normally the court's duty to issue the writ.

(1). The clerk shall arrange for service by certified mail upon respondent, a copy of the petition, of all documents in support thereof, and of this Order. All costs of service shall be advanced by

1 the United States. The Clerk shall assemble the necessary documents to effect service. The Clerk shall  
2 send petitioner's counsel a copy of this Order, the General Order. **No courtesy copy of the petition need**  
3 **be sent to the Washington State Attorney General's Office Criminal Justice Division. However, a**  
4 **courtesy copy of this order should be sent to them so they are aware the petition has been accepted**  
5 **for service.**

6 (2) Within forty-five (45) days after such service, respondent shall file and serve an  
7 answer in accordance with Rule 5 of the Rules Governing § 2254 Cases in United States District Courts.  
8 As part of such answer, respondents should state whether petitioner has exhausted available state remedies,  
9 whether an evidentiary hearing is necessary, and whether there is any issue of abuse of delay under Rule 9.  
10 Respondent shall not file a dispositive motion in place of an answer without first showing cause as to why  
11 an answer is inadequate. Respondent shall file the answer with the Clerk of Court and serve a copy of the  
12 answer upon petitioner.

13 (3) The answer will be treated in accordance with Local Rule CR 7. Accordingly, upon  
14 receipt of the Answer the Clerk will note the matter for consideration on the fourth Friday after the answer  
15 is filed, petitioner, through counsel, may file and serve a response not later than on the Monday  
16 immediately preceding the Friday appointed for consideration of the matter, and respondent may file and  
17 serve a reply brief not later than on the Thursday immediately preceding the Friday designated for  
18 consideration of the matter.

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21 DATED this 11 day of June, 2007.  
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23 /S/ J. Kelley Arnold  
24 J. Kelley Arnold  
25 United States Magistrate  
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